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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/966,303

09/28/2001

Matthew Whitehead

BAI525-520/01786

5038

24118 7590 03/04/2009  
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EXAMINER

SHEPARD, JUSTIN E

ART UNIT

PAPER NUMBER

2424

MAIL DATE

DELIVERY MODE

03/04/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/966,303	<b>Applicant(s)</b> WHITEHEAD, MATTHEW	
	<b>Examiner</b> Justin E. Shepard	<b>Art Unit</b> 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 9-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 12/3/08 have been fully considered but they are not persuasive.

Page 5, paragraph beginning with "In response":

The applicant is arguing that Barrett (column 9, lines 44-46) implies that the electronic program guide and video clips are transmitted together as one download. The examiner disagrees with the applicant and finds no evidence in the cited portion to back up the applicant's claim.

The applicant further argues this point by citing column 9, line 66 to column 10, line 1 claiming that this portion of the reference also teaches that the EPG data and the preview data are transmitted together. This portion only states that it **may** be possible to insert sections of actual video content into the digital data stream. As is its an alternative scenario and doesn't explicitly prove the applicant right, the examiner disagrees with the applicant's interpretation.

Page 6, first paragraph:

The applicant argues that Lawler stores the video preview clips remotely and not locally as required by the claim. The portion referred to by the applicant (column 6, lines 54-64) states that the device checks memory 68 of station controller 20, which is earlier shown to be the memory in the user's device (figure 1, part 20; figure 2, part 68;

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column 4, lines 3-6). Therefore the video could be stored locally and the applicant's argument is moot.

Page 7, paragraph beginning with "The Barrett":

The applicant once again argues that the reference downloads the EPG and the preview data simultaneously, but provides no explicit proof. Therefore the argument is moot.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler (US Patent 6,868,551) in view of Barrett in view of Klosterman.

Referring to claim 1, Lawler discloses a television system, said system comprising:

a broadcast data receiver (figure 1, part 20) for receiving data which is broadcast from a remote location (figure 1) and which includes video, audio and auxiliary data (column 3, lines 62-65; column 5, lines 61-67), processing said data to generate video,

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audio (column 4, lines 12-17) and auxiliary services via an on-screen display (figure 3B) and speakers connected with the broadcast data receiver (column 7, lines 30-32);

an electronic program guide which is generated from said auxiliary data on screen to provide information and facilitate user selection of programs for viewing at that instant or in the future (column 5, lines 61-67, 15-19, and 39-40); and

a storage means provided as a part of the broadcast data receiver (figure 2, part 68) in which data is downloaded and held in storage locally in memory for subsequent retrieval and display upon the selection of a program from the electronic program guide (column 5, lines 42-50; column 6, lines 54-61) and to which a portion of the video and/or audio data relates (column 6, lines 62-64), the stored portions of data having identification data such that upon user selection to receive information on a program using the electronic program guide the broadcast data receiver identifies the identification data for the selected program (column 5, lines 42-50) and searches the for stored video and/or audio data with matching identification data (column 6, lines 62-64), and if found, processes the same to generate video and/or audio therefrom for said display (figure 5, box 130).

Lawler does not disclose a system wherein the storage means in the form of a hard disc memory; and wherein a plurality of portions of video and/or audio data are stored on the memory; said video and/or audio data to be stored is downloaded separately from said auxiliary data at designated off peak time according to when the broadcast data receiver is not in use by a user and when the broadcast data receiver is less likely to be in use for other functions; and

wherein said video and/or audio data is transmitted to the broadcast receiver in a single transport stream.

In an analogous art, Barrett teaches a system wherein the storage means in the form of a hard disc memory (column 4, lines 15-17); and wherein a plurality of portions of video and/or audio data are stored on the memory; said video and/or audio data to be stored is downloaded separately from said auxiliary data at designated off peak time according to when the broadcast data receiver is not in use by a user and when the broadcast data receiver is less likely to be in use for other functions (column 9, lines 41-51 and 63-65; Note: the applicant's original specification (page 7, second paragraph), it uses the middle of the night as an example of an off peak time, which the examiner interprets 3am as being falling into this time period).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the hard drive and video downloading during off peak times taught by Barrett in the system disclosed by Lawler. The motivation would have been that hard disk storage devices offer large amounts of storage at a cheaper price than solid-state storage devices; and that downloading during off peak times saves on bandwidth consumption (column 9, lines 41-51).

Lawler and Barrett do not disclose a system wherein said video and/or audio data is transmitted to the broadcast receiver in a single transport stream.

In an analogous art, Klosterman teaches a system wherein said video and/or audio data is transmitted to the broadcast receiver in a single transport stream (column 2, lines 8-11).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the single transport stream taught by Klosterman to the system disclosed by Lawler and Barrett. The motivation would have been that Klosterman teaches a system that cannot receive other data while the preview data is downloading, so it would have been well known in the art to transport this data as a single stream of data.

Referring to claim 2, Lawler discloses a television system according to claim 1 wherein said retrieval and display of said video and/or audio data from the storage means is in response to a user request for further information with respect to a particular program displayed on said electronic program guide (column 5, lines 42-50).

Referring to claim 3, Lawler discloses a television system according to claim 1 wherein a video and/or audio clip or trailer for a particular program is generated from said data retrieved from storage and shown to the user (column 6, lines 54-61).

Referring to claim 4, Lawler discloses a television system according to claim 3 wherein the user has the option, after or during viewing the clip or trailer, to select the program at that instant (column 5, lines 39-40) or in the future via said electronic program guide.

Referring to claim 10, Lawler discloses a television system according to claim 1 wherein said data video data being transmitted for the generation of the clips and

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trailers are shown in a portion of said display screen (figure 3B, box 94; column 5, lines 42-50).

Referring to claim 11, Lawler discloses a television system according to claim 1 wherein further auxiliary information is generated via said data stored in the storage means for retrieval upon the selection of a related program via said electronic program guide (column 5, lines 42-57).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler in view of Barrett and Klosterman as applied to claim 1 above, and further in view of Ludwig.

Referring to claim 9, Lawler and Barrett do not disclose a television system according to claim 1, wherein said video data being transmitted for the generation of clips and trailers is a low resolution.

In an analogous art, Ludwig teaches a television system according to claim 1, wherein said video data being transmitted for the generation of clips and trailers is a low resolution (column 78, lines 49-55).

At the time of the invention it would have been obvious for one of ordinary skill in the art to download the clips at lower resolutions, as taught by Ludwig, in the system disclosed by Lawler and Barrett. The motivation would have been to conserve bandwidth needed to transfer video files (Ludwig: column 58, lines 20-21).



***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/  
Supervisory Patent Examiner, Art  
Unit 2424

JS